

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BERNICE PORTIS and	:	
JOHN PORTIS,	:	Case No. 06cv2123
Plaintiffs,	:	
	:	
v.	:	(Judge Jones)
	:	
RIVER HOUSE ASSOCIATES, L.P.,	:	
<u>et al.</u> ,	:	
Defendants.	:	

MEMORANDUM AND ORDER

July 22, 2008

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Presently pending before this Court is Plaintiffs' Second Motion for an Enlargement of Time ("Motion"), filed on July 21, 2008. (Rec. Doc. 60). In the Motion, Plaintiffs' counsel indicates that he requires additional time, until August 8, 2008, to file the appropriate materials opposing Defendants' pending Motion for Summary Judgment. (See Rec. Doc. 54). Plaintiffs' counsel attributes his need for this second extension to a recent illness and the difficulty communicating with Plaintiff John Portis, who is stationed in Iraq.

Significantly, we are also in receipt of Defendant's "Reply Brief" (doc. 59) in support of their pending Motion for Summary Judgment (doc. 54). In the same,

counsel for Defendants assert that Plaintiffs' materials opposing the pending Motion for Summary Judgment are overdue. Based on the lack of relevant filings from Plaintiffs, Defendants essentially ask this Court to deem their proffered Statement of Materials Facts admitted and their Motion unopposed, requiring the entry of summary judgment in their favor. From Defendants' "Reply Brief," we can infer that Defendants do not concur in Plaintiffs' pending Motion.

Upon our review of Plaintiffs' Second Motion for an Enlargement of Time and Defendants' "Reply Brief," we will grant Plaintiffs' Motion and strike Defendants' most recent submission. We will grant Plaintiffs' Motion because, inter alia: 1) when we denied (see doc. 51) in part Plaintiffs' Motion to Stay (doc. 50) this action, we indicated that we would be receptive to reasonable requests for extension of time from Plaintiffs' counsel; 2) although Plaintiffs' opposition materials are overdue at this time, by any means of counting, they are not egregiously overdue; and 3) Plaintiff has requested an additional extension. We will strike Defendants' "Reply Brief" because this Court's Local Rule 7.7 indicates that such briefs are to be filed "within ten (10) days after service of the respondent's brief," M.D. Pa. L.R. 7.7, and as is clear from Defendants' submission, no such respondents' brief has been filed. Moreover, in light of our granting of Plaintiffs' Motion, the requests contained in Defendants' submission

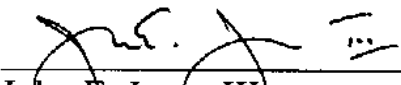
are moot.

Finally, we offer the following observations. First, under no set of circumstances that we can envision do we anticipate granting any further extensions to Plaintiffs relating to the pending Motion for Summary Judgment. Second, following the submissions of Plaintiffs' materials, Defendants are free to file any appropriate reply brief. Third, should Plaintiffs fail to adhere to the deadlines set forth herein, then some of the relief requested in Defendants' "Reply Brief" may once again be at issue. As a matter of course, if such is the case, the same must be raised by Defendants once again, perhaps via the filing of a letter on the docket rather than an inappropriate "Reply Brief."

NOW, THEREFORE, IT IS ORDERED THAT:

1. Plaintiffs' Second Motion for an Enlargement of Time (doc. 60) is hereby **GRANTED**.
2. Defendants' "Reply Brief" (doc. 59) is hereby **STRICKEN** from the record in this action.

3. All of Plaintiffs' materials in opposition to the pending Motion for Summary Judgment are hereby due no later than August 8, 2008.¹



John E. Jones III
United States District Judge

¹ In light of the observations in our Memorandum, Plaintiffs' counsel is advised to rededicate himself to this action in order to assure his ability to comply herewith.